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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,855	01/30/2004	Joseph W. Rigler	30909	3912
7590	09/08/2004		EXAMINER	
Michael W. York 5508 Griffith Road Gaithersburg, MD 20882			RICHARDSON, JOHN A	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/766,855	RIGLER, JOSEPH W.	
	Examiner	Art Unit	
	John Richardson	3641	<i>NW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☒ Claim(s) 8-9, 11-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Non Final Rejection***

1). The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2). The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3). Claims 1 to 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are vague, indefinite and incomplete as to what is meant by the phrases **lower** and **upper** in claim 1, and what these are in respect to, i.e. just the front sight base or both the front sight base and the mounting member. The metes and bounds of the claims are undefined.

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4). Claims 1 to 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Aigner (U.S. 4,686,770).

The reference discloses an adjustable firearm front sight comprising a removable sighting element (item 6) mounted on a firearm front sight base (item 7) rotatable and secured to the said firearm by means of a threaded stud (item 8) supported in a radial bore (item 5) of the said sighting element carrier (item 3), relating to claims 2-4, the reference discloses the said rotatable base providing elevational adjustment by means of the said threaded stud.

5). Claims 1 to 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Frimer (U.S. 4,574,335).

The reference discloses an adjustable firearm front gun sight (item 24), comprising a changeable sighting element (item 82) for mounting on a rotatable base (item 74) for the said front sight, and the secured to the said firearm, relating to claims 2-4, the reference discloses a lower rotatable front sight base (item 74) with a threaded portion sized and shaped to be secured to the said firearm sight base (see Figures 4-5).

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6). Claims 1 to 7, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Baumer (U.S. 6,336,285).

The reference discloses an adjustable firearm front gun sight (item 22), comprising a changeable sighting element (item 10B) for mounting on a rotatable base (item 120) for the said front sight, and the secured to the said firearm, relating to claims 2-4, the reference discloses a lower rotatable front sight base (item 120) with a threaded portion sized and shaped to be secured to the firearm sight base, item 136, by item 126, relating to claims 5-7, the reference discloses a plurality of sighting elements in the form of a sighting bar (item 36B) and an optical sight (item 118), and a light emitting diode (item 132) capable of being positioned by actuation means (Column 6, lines 37+, Column 8, lines 1-10), and relating to claim 10, the said front sight member (item 10B) is independently movable by means of said item 120 (Column 6, lines 57+).

7). Claims 8-9, 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8). The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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9). Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Richardson whose telephone number is (703) 305 0764. The examiner can normally be reached on Monday to Thursday from 7.00 AM to 4.30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306 4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305 7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 1113.

John Richardson, PE,

August 30 2004.

  
MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER